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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
 )  
Inquiry Concerning the Deployment of )  
Advanced Telecommunications )  
Capability to All Americans in a Reasonable )  
and Timely Fashion, and Possible Steps )  
to Accelerate Such Deployment )  
Pursuant to Section 706 of the )  
Telecommunications Act of 1996 )

CC Docket 98-146

**COMMENTS OF  
MOULTRIE INDEPENDENT TELEPHONE COMPANY**

Moultrie Independent Telephone Company (Moultrie) is a rural independent local exchange telephone company (ILEC) serving nearly 800 access lines in central Illinois. Moultrie has reviewed both the instant Notice of Inquiry as well as the companion MO&O and NPRM in CC Docket No. 98-147, *et seq.* (the Companion Proceedings). Moultrie has retained counsel to prepare and file comments on its behalf in this proceeding as well as the 98-147 proceeding because Moultrie believes that these interrelated proceedings would have an enormous adverse impact on its business, operations and public services if implemented as proposed.

INTRODUCTION

1. As discussed below, the laudable intentions of the Commission expressed in the NOI appear out of phase and diametrically opposed to the regulatory burdens the

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Commission is considering in the Companion Proceedings.<sup>1</sup> Moultrie vigorously urges the Commission to take great care in these proceedings, and to give great thought to the unwarranted effect its proposals would have on small rural telephone companies like Moultrie.

2. Moultrie has long prided itself on the reputation it has earned both locally and regionally as a progressive and forward looking company – a telephone company that has historically provided quality state-of-the-art products and services to subscribers at affordable rates. Moultrie has been an industry leader in deploying digital switching and high-capacity fiber trunking; through its affiliates Moultrie has made available to the public cable television and Internet services.

3. Moultrie has viewed its business plan as dynamic. It has thus sought to capitalize on deregulatory and pro-competitive policies as a means to broaden its service offerings. Consequently, as Moultrie looked forward to the services it might offer in the next millennium, it sought to offer advanced services and broadband connections not only to its present subscriber base, but possibly, through its affiliates, to new subscribers outside its present study area.

4. Indeed, prior to its reading of the instant NOI and Companion Proceedings Moultrie viewed the world in the context of the Telecommunications Act of 1996 as providing it with the freedom and opportunity to expand its business horizons, albeit with

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<sup>1</sup> Moultrie intends to file timely Comments on the issues and proposals contained in the Companion Proceedings. Herein, Moultrie seeks to be responsive to the Commission's NOI, but at the same time make evident inherent inconsistencies with the Companion Proceedings.

certain obligations and responsibilities *vis-a-vis* would-be competitors. Moultrie believed that there was a statutory and legal basis to support its becoming a regional supplier of a broad array of telecommunications products and services. To the contrary, now, in the face of the Companion Proceedings, Moultrie believes it may wallow in a regulatory mire, be subjected to unwarranted and unfair regulatory requirements that burden it to the benefit of new entrants and that its Constitutional expectation of earning a return on its investment may go begging. Clearly, the Commission can not intend such perverse consequences be visited on small rural ILECs such as Moultrie.

#### THE COMMISSION'S NOI INTENTIONS ARE LAUDABLE

5. Reading the Commission's expressed intentions in the instant NOI together with its conclusions and proposals contained in the Companion Proceedings leaves Moultrie perplexed and gravely concerned. The instant NOI contains many expressions that Moultrie finds laudable.<sup>2</sup> Indeed, the Commission's conclusion that "...encouraging the deployment of advanced telecommunications capability for all Americans on a reasonable and timely

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<sup>2</sup> *E.g.*, "We intend for advanced technology to have every opportunity to flourish and herein ...seek...ways to make its deployment more efficient and more inclusive." NOI at par. 1; "[T]here must be more bandwidth in the last mile to the home. NOI at par. 3 (Moultrie respectfully urges the Commission to think in terms of first mile (because the customer premise is where information and data originate) as well as the last mile; "We intend to rely as much as possible on free markets and private enterprise to deploy advanced services." NOI at par. 5; "We underscore our commitment...to promote the deregulatory and pro-competitive goals of the 1996 Telecommunications Act...." NOI at par 5; "We are asking: "'Who is able and motivated to deploy advanced services soon, especially to residential customers' ...in rural areas and inner cities, and other customers who are traditionally thought to be less profitable?" NOI at par. 8; "[We] invite proposals for action, especially removing barriers to infrastructure investment and...promoting competition in the telecommunications marketplace...." NOI at par. 10.

basis must be a top priority for this Commission and for the quality of this country's life in the coming century" is unassailable and, in the vernacular, "right on!" NOI at par 85.

6. The Commission properly expresses concern about the demand for advanced telecommunications services in rural areas. NOI at par. 65. And, Moultrie answers the Commission's question in the affirmative -- rural communities are more dependent on telecommunications services than other communities. Respecting the forms of advanced telecommunications capabilities that rural areas need most, Moultrie submits that a combination of fiber and wireless based infrastructure will prove most effective both economically and technologically. The Commission should not give undue consideration to any single mode of providing advanced telecommunications services, such as xDSL. For the record, Moultrie views xDSL as an interim and temporary technology, similar to 8-Track audio cassette.

#### DEPLOYMENT IMPEDIMENTS – GOVERNMENTAL AND REGULATORY

7. In the latter paragraphs of its NOI (par. 66 *et seq.*) the Commission seeks input from Commentors on impediments and barriers to the deployment of advanced telecommunications services. As it did in its section 257 ("Barriers") proceeding<sup>3</sup>, the Commission queries whether lack of capital, lack of technology, or barriers created by law and regulation may possibly be slowing deployment. Indeed, the Commission asks, "[t]o what extent can the Commission adopt solutions to these problems consistent with the deregulatory, market emphasis of the Act?" NOI at par. 66. When all is said and done, the

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<sup>3</sup> In the Matter of, Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses, Report, 12 FCC Rcd 16802 (1997).

optimal way not to slow down the deployment of advanced telecommunications services would be for the Commission to stop implementing (or proposing) rules that impair the ability of companies like Moultrie from deploying these services.

8. Moultrie responds that in the absence of unwarranted and unjustified governmental and regulatory interference in its business, it believes it is well positioned to raise capital, obtain and deploy technology and offer advanced telecommunications services in its present service area and, perhaps, elsewhere. But, if the Commission were to implement unwarranted and draconian regulatory requirements as proposed in the Companion Proceedings and impose these burdens on small rural companies, not only would Moultrie suffer irreparably, but the Commission would bear direct responsibility for impeding deployment of advanced telecommunications services. If implemented, the Commission's proposals would critically deter investment in rural infrastructure by companies like Moultrie. Truly, the Commission cannot intend such a result.<sup>4</sup> In the extreme, some of the regulatory "safeguard" proposals that are presently on the table (hopefully soon off the table) would so undermine Moultrie's future business as to constitute an unconstitutional taking.

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<sup>4</sup> In its Comments to be filed on the Companion Proceedings, Moultrie will point to the problems that the Commission itself has identified with some of the regulatory requirements being considered therein, such as separate, maximumly separated affiliates, as well as the statutory and legal responsibilities the Commission is enjoined to follow respecting small companies.

## UNIVERSAL SERVICE – SCHOOLS AND LIBRARIES

9. In Paragraphs 72 and 73 of the NOI, the Commission inquires as to the extent universal service support might help ensure access to advanced services, generally, and specifically with regard to schools, classrooms, libraries and health care services. “Should the goals of section 706 be considered in interpreting the word “evolving” in section 254's definition of universal service?” NOI at par. 73. Historically, Moultrie has supported local schools, wired classrooms, aided its libraries and underwritten public health care; this is Moultrie’s heritage and tradition. This is typical of many rural LECs.

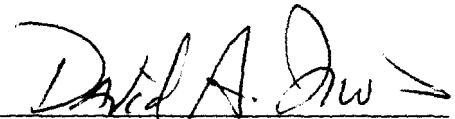
10. Moultrie believes that section 706 should be read with section 254 in an expansive way and that advanced telecommunications services clearly are “evolving” services that must become as ubiquitous as POTS in the next century. Patently, Congress saw Universal Service support mechanisms as dynamic in response to emerging technology and service applications. The issue then is one of fundamental fairness to ILECs and ILEC affiliates that may be formed to offer these services. ILEC family businesses should be treated equally and as fairly as any new entrants. It is imperative that the Commission create a “level playing field” for all telecommunications service providers. It is unwarranted to handicap these rural companies.

## CONCLUSION

11. In conclusion, Moultrie believes that the Commission shows that it is on the right track in the instant NOI: it seeks to fulfill its Congressionally imposed responsibilities under section 706 by facilitating advanced telecommunications services and looks for impediments that might frustrate that purpose. However, insofar as the Commission would impose

regulatory and legal requirements apparent in the Companion Proceedings to this proceeding, it would severely, perhaps critically, impair Moultrie and other rural telephone companies from realizing the potential inherent in the 1996 Telecommunications Act. Whatever the Commission may ultimately decide to do, it must exempt companies like Moultrie from regulations that would defeat the purpose of Section 706 of the Act.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "David A. Irwin", with a stylized flourish at the end.

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